

instrument is expressly denominated as a "lease," including any:

- (1) Contract;
- (2) Net profit share arrangement;
- (3) Joint venture; or
- (4) Agreement the Secretary approves under the Indian Mineral Development Act, 25 U.S.C. 2101 *et seq.*

Lessee means any person to whom the United States, or the United States on behalf of an Indian tribe or individual Indian mineral owner, issues a lease subject to this subpart, or any person to whom all or part of the lessee's interest or operating rights in a lease subject to this subpart has been assigned.

Notice of Order means the notice that MMS or a delegated State issues to a lessee that informs the lessee that MMS or the delegated State has issued an order to the lessee's designee.

Obligation means:

- (1) A lessee's, designee's or payor's duty to:

- (i) Deliver oil or gas royalty in kind; or

- (ii) Make a lease-related payment, including royalty, minimum royalty, rental, bonus, net profit share, proceeds of sale, interest, penalty, civil penalty, or assessment; and

- (2) The Secretary's duty to:

- (i) Take oil or gas royalty-in-kind; or
 - (ii) Make a lease-related payment, refund, offset, or credit, including royalty, minimum royalty, rental, bonus, net profit share, proceeds of sale, or interest.

- (3) The obligations identified in paragraphs (1)(i) and (2)(i) of this definition are nonmonetary obligations. The obligations identified in paragraphs (1)(ii) and (2)(ii), including the requirement to compute the amount of such obligations, are monetary obligations.

Order for purposes of this subpart only, means any document issued by the MMS Director, MMS RMP, or a delegated State that contains mandatory or ordering language that requires the recipient to do any of the following for any lease subject to this subpart: report, compute, or pay royalties or other obligations, report production, or provide other information.

- (1) Order includes:

- (i) An order to pay or to compute and pay; and

- (ii) An MMS or delegated State decision to deny a lessee's, designee's, or payor's written request that asserts an obligation due the lessee, designee or payor.

- (2) Order does not include:

- (i) A non-binding request, information, or guidance, such as:

- (A) Advice or guidance on how to report or pay, including a valuation determination, unless it contains mandatory or ordering language; and

- (B) A policy determination;

- (ii) A subpoena;

- (iii) An order to pay that MMS issues to a refiner or other person involved in disposition of royalty taken in kind; or

- (iv) A Notice of Noncompliance or a Notice of Civil Penalty issued under 30 U.S.C. 1719 and 30 CFR part 241, or a decision of an administrative law judge or of the IBLA following a hearing on the record on a Notice of Noncompliance or Notice of Civil Penalty.

Party means MMS, any person who files a Notice of Appeal, and any person who files a Notice of Joinder in an appeal under this subpart.

§ 290.103 Who may file an appeal?

- (a) If you receive an order that adversely affects you or your lessee, you may appeal that order except as provided under § 290.104.

- (b) If you are a lessee and you receive a Notice of Order, and if you contest the order, you may either appeal the order or join in your designee's appeal under § 290.106.

§ 290.104 What may I not appeal under this subpart?

You may not appeal:

- (a) An action that is not an order, as defined in this subpart; or

- (b) A determination of the surety amount or financial solvency under 30 CFR part 243, subparts B or C.

§ 290.105 How do I appeal an order?

- (a) You may appeal an order to the Director, Minerals Management Service (MMS Director), by filing a Notice of Appeal in the office of the official issuing the order within 30 days from service of the order.

- (1) Within the same 30-day period, you must file in the office of the official issuing the order a statement of